

SENATE BILL 163

By Ketron

AN ACT to amend Chapter 429 of the Private Acts of 1931, as amended by Chapter 30 of the Private Acts of 1967, Chapter 104 of the Private Acts of 1993, Chapter 94 of the Private Acts of 1997, and any other acts amendatory thereto, relative to Charter of the City of Murfreesboro.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 429 of the Private Acts of 1931, as amended by Chapter 30 of the Private Acts of 1967, Chapter 104 of the Private Acts of 1993, Chapter 94 of the Private Acts of 1997, and any other acts amendatory thereto, is further amended by deleting subsections (d) through (g) of Section 36 and by substituting instead the following:

(d)

(1) The City Manager shall have exclusive power to dismiss, suspend, reduce in rank or otherwise discipline all employees of the city, subject to the employee's constitutional rights, provided, however, that the head of any department, as regards such department head's subordinate employees, shall have the power at any time to temporarily suspend with pay an offending or derelict employee for a period of not to exceed two (2) days (or one [1] shift in the case of firefighters) without prior approval of the City Manager, subject to the employee's constitutional rights. Any employee, other than a probationary employee who is dismissed, is entitled to request a hearing before the Disciplinary Review Board. Any such request must be in writing and filed with the clerk of the board within ten (10) days of written notice of the action. Upon hearing, the board may sustain, modify or overrule the action of the City Manager, may order the employee reinstated, with or without back pay, or may

order such other disciplinary action as deemed appropriate from the facts and evidence adduced at the hearing.

(2)

(A) If the Disciplinary Review Board determines that a contested personnel case involves complicated issues of law or is likely to require more than five (5) hours of testimony, then the Disciplinary Review Board may appoint a Hearing Officer to hear such case. The Hearing Officer shall be a licensed attorney who shall be compensated at an hourly rate, which rate shall be uniform and not changed by the City Council more than one (1) time per year.

(B) Such hearings on contested personnel cases shall be conducted in accordance with Tennessee Code Annotated, §§ 4-5-301, et seq., except that:

(i) Any reference therein to "administrative judge or hearing officer employed in the office of the secretary of state" or similar language shall mean a licensed attorney as described in Section 36(d)(2)(A);

(ii) The Hearing Officer or any substitute therefor shall be appointed by the Disciplinary Review Board rather than the Governor or other appointing authority; and

(iii) Any reference therein to "agency" shall mean the Disciplinary Review Board.

(e) The rules governing contested cases under the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-301, et seq., shall apply to all hearings before the board and to any judicial review of its decisions.

(f) All full-time employees of the city, other than the City Manager, City Recorder, City Treasurer, City Attorney and City Judge are hereby declared to be employees, subject to all the conditions, limitations and benefits of this section. Any such employee

shall be a probationary employee during their first year of employment. In calculating the probationary year, time that the employee is not performing all of the duties of his or her position because of absence or restriction shall be excluded and the probationary period shall be extended for an amount of time equal to the period of absence or restriction. A probationary employee may be dismissed by the City Manager without having any right of review by the board.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Murfreesboro City Council. Its approval or nonapproval shall be proclaimed by the presiding officer of the City Council and certified to the secretary of state.

SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 2.